



AMENDMENTS No. 2.1

AIFC CONDUCT OF BUSINESS RULES

Approval Date: 2 December 2018

Commencement Date: 2 December 2018

Nur-Sultan, Kazakhstan



In this section, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments

5. ~~SUITABILITY AND APPROPRIATENESS~~ CONDUCT OF INVESTMENT BUSINESS

5.1. Application

5.1.1. Application of requirement to assess suitability

COB 5.2 applies where an Authorised Firm:

- (a) Advises on Investments; or
- (b) Manages Investments.

5.1.2. Application of requirement to assess appropriateness

COB 5.3 applies where an Authorised Firm is:

- (a) Dealing in Investments as Principal;
- (b) Dealing in Investments as Agent, or
- (c) receiving and transmitting orders for a Client,

and is not Advising on Investments or Managing Investments.

Guidance: Receiving and transmitting orders

An Authorised Firm carries on this activity of "receiving and transmitting orders" if it both receives an order from a Client for a transaction in an Investment and transmits it to another party, such as a broker, for execution or for onward transmission to the executing broker or venue.

5.1.3. Market Counterparties

COB 5 does not apply where the Authorised Firm provides a Financial Service to a Market Counterparty.



5.6. Packaged products—additional disclosure

5.6.1. Product disclosure document—preparation

An Authorised Firm must prepare a Product Disclosure Document for each Packaged Product it produces.

5.6.2. Product disclosure document—provision requirement

- (1) An Authorised Firm (the selling firm) must not sell, or arrange for the sale of, a Packaged Product to a Retail Client unless it has given the Client, not later than a reasonable time before the Client becomes contractually bound in relation to the sale of the Packaged Product—
 - (a) a Product Disclosure Document for the Packaged Product; or
 - (b) if the Packaged Product was produced by another Authorised Firm—a Product Disclosure Document that complies with subrule (2); or
 - (c) if the Packaged Product was produced by a person in a jurisdiction other than the AIFC—disclosure documentation that complies with subrule (3).
- (2) If the Packaged Product was produced by another Authorised Firm, the Product Disclosure Document given to the Retail Client under subrule (1) (b)—
 - (a) must be the Product Disclosure Document prepared by the other Authorised Firm; but
 - (b) must prominently display each of the following:
 - (i) the name of the selling firm;
 - (ii) either the address of the selling firm or a contact point from which the address is available;
 - (iii) the selling firm's regulatory status.
- (3) If the Packaged Product was produced by a person in a jurisdiction other than the AIFC, the disclosure documentation given to the Retail Client under subrule (1) (c) complies with this subrule if—
 - (a) the selling firm is satisfied on reasonable grounds that—
 - (i) the disclosure documentation was prepared by the person in accordance with the requirements of the law of the other jurisdiction; and
 - (ii) those requirements are broadly equivalent to the requirements of this division; and
 - (b) the disclosure documentation prominently displays—
 - (i) the information mentioned in subrule (2) (b) (i) to (iii); and
 - (ii) if the Packaged Product is a Life Policy—



- (A) a statement to the effect that the person who produced the Packaged Product (the insurer) is not authorised or regulated by the AFSA; and
 - (B) an explanation of any differences between the cancellation rights (if any) applying in relation to the Packaged Product (including the length of any period to exercise the rights) and those that would be provided under these rules if the insurer were an Authorised Firm; and
 - (C) a warning to the effect that the claims handling procedures applying in relation to the Packaged Product may differ from those provided under these rules.
- (4) If a Life Policy sold by an Authorised Firm to a Retail Client is varied and, because of the variation, the Client has a right to cancel the Life Policy under COB 19.2.2 (Variations of Life Policies—right to cancel), the firm must:
- (a) update the document that it gave the Client under subrule (1) in relation to the Life Policy to reflect the variation; and
 - (b) give a copy of the updated document to the Client.

Guidance for COB 5.6.2 (2) and (3)

- 1 An Authorised Firm may comply with COB 5.6.2 (2) (b) or (3) (b) by including the required information in a sticker or wrapper attached to the Product Disclosure Document or disclosure documentation.
- 2 The purpose of COB 5.6.2 (3) is to allow an Authorised Firm to give disclosure documentation that meets the disclosure objectives of a Product Disclosure Document, even if the form or content is different in matters of detail from that required by this division. For example, an Authorised Firm could provide a disclosure document that uses a projection or illustration prepared in accordance with rules prescribed by an overseas regulator, if these ensure a fair projection based on objective and reasonable assumptions.

5.6.3. Product disclosure document—form

An Authorised Firm must ensure that a Product Disclosure Document given by it to a Retail Client for a Packaged Product—

- (a) is produced and presented to at least the same quality and standard as the sales or marketing material used by it to promote the Packaged Product; and
- (b) is separate from any other material given to the Client; and
- (c) displays the product provider's brand at least as prominently as any other brand displayed; and
- (d) does not disguise, diminish or obscure important items, statements or warnings.

5.6.4. Product disclosure document—content

- (1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Packaged Product includes each of the following:



- (a) the firm's name;
 - (b) either the address of the firm or a contact point from which the address is available;
 - (c) the firm's regulatory status;
 - (d) the following statement prominently displayed:

‘The Astana Financial Services Authority is the independent financial services regulator for the Astana International Financial Centre. It requires us, *[insert Authorised Firm’s name]*, to give you this important information to help you to decide whether this *[insert ‘product’ or product name]* is right for you. You should read this document carefully so that you understand what you are buying, and then keep it safely for future reference.’;
 - (e) a description, appropriate for the Packaged Product's complexity, of its nature, its particular characteristics, how it works, and any limitations or minimum standards that apply;
 - (f) enough information about the material benefits and risks of buying the product for a Retail Client to be able to make an informed decision about whether to buy;
 - (g) the availability of the firm's internal complaint-handling procedures and how a complaint may be made to the firm;
 - (h) whether there is a right to cancel and, if there is a right to cancel, the consequences of exercising this right, and enough details to enable the right to be exercised by a Retail Client.
- (2) An Authorised Firm must not, in a Product Disclosure Document prepared by it, do or say (or fail to do or say) anything that might reasonably lead a Retail Client to be mistaken about the product provider's identity.

5.6.5. Life policies—additional content

- (1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Life Policy for a Retail Client includes the following:
- (a) a definition of each benefit and option;
 - (b) the term of the contract;
 - (c) details of how the contract may be terminated;
 - (d) how and when premiums are payable;
 - (e) details of how bonuses are calculated and distributed, including the following information:
 - (i) how profits that are allocated for the payment of bonuses are distributed;
 - (ii) whether increased benefits resulting from bonuses are payable (subject to any adjustments) even if the contract is terminated early by either party to the contract;



- (iii) if bonuses increase benefits—whether increases are likely to be made each year or only when the policy amounts become payable to the policyholder;
 - (iv) the basis on which bonuses are distributed to policyholders;
 - (v) whether policies share equitably in the allocation of all the profits of the long-term fund, or only certain elements of the profits;
 - (f) an illustration prepared in accordance with COB 5.6.6 (Life policies—illustrations), except if the benefits of the Life Policy do not depend on future investment returns;
 - (g) information about charges and expenses that, subject to subrule (2), includes—
 - (i) a description of the nature of the charges and expenses the Retail Client will, or may be expected to, pay; and
 - (ii) 2 tables (one for the lower projection, and the other for the higher projection, calculated on the basis of a rate of return mentioned in COB 5.6.6 (2)), each prepared in accordance with COB 5.6.7 (Life policies—effect of charges and expenses table) illustrating the effect of charges and expenses on the policy;
 - (h) information on premiums for each benefit, including, if appropriate, both main benefits and supplementary benefits;
 - (i) if the Retail Client has been charged for rider benefits or increased underwriting benefits—the amount of premiums charged for those benefits;
 - (j) if the policy is a unit-linked policy—a definition of the units to which benefits are linked and the nature of the underlying assets.
- (2) If the Authorised Firm is exempt from including an illustration mentioned in rule (1) (f) because the benefits of the Life Policy do not depend on future investment returns, the Product Disclosure Document prepared by it for the Life Policy must include—
 - (a) an indication of guaranteed benefits, surrender benefits, paid-up values and any other benefits (whichever are applicable) under the policy; and
 - (b) the likely amount, and a general description, of the charges and expenses the Retail Client will, or may be expected to, pay under the policy.

5.6.6. Life policies—illustrations

- (1) For COB 5.6.5 (1) (f), the illustration must indicate how the main terms of the Life Policy apply to the Retail Client and contain projections of the final surrender value of the policy calculated in accordance with COB 5.6.8 (Life policies—projection calculation rules).
- (2) The illustration must contain at least 2 projections, with—
 - (a) a lower projection calculated on the basis of a rate of return to be set at no more than 5%; and
 - (b) a higher projection calculated on the basis of a rate of return that the Authorised Firm reasonably expects the Life Policy to achieve, but that, in any event, must be no more than 9%.



5.6.7. Life policies—effect of charges and expenses tables

- (1) For COB 5.6.5(1) (g), each table illustrating the effect of charges and expenses on the policy must include the contents of the following table (The Effects of Charges and Expenses Table).

The Effects of Charges and Expenses Table

WARNING—if you cash in early you could get back less than you have paid in
This table illustrates what you would get back from your investment if it grew at x% (<i>insert rate of return</i>) a year. These figures are not guaranteed and are only intended to demonstrate the effect of charges and expenses on your investment based on different assumptions on the growth of your investments.

At end of Year	Total paid in to date	Effect of charges and expenses to date	What you might get back
	KZT	KZT	KZT
1			
2			
3			
4			
5			
10			
15			

- (2) An Authorised Firm may change the Effects of Charges and Expenses Table so far as necessary to reflect the nature and effect of the charges and expenses inherent in the particular product.
- (3) In completing the **Effects of Charges and Expenses Table**, the Authorised Firm must—
 - (a) include figures for the first 5 years of the Life Policy; and
 - (b) if the policy is a whole-Life Policy or the illustration covers more than 25 years—include figures for the 10th and every subsequent 10th year of the policy’s term; and
 - (c) if the policy is not a whole-Life Policy and the illustration covers 25 years or less—include figures for the 10th and every subsequent 5th year of the policy’s term; and



- (d) include—
 - (i) the final year of the policy; or
 - (ii) for a whole-Life Policy or a single premium Life Policy without a fixed term—an appropriate end date for the policy; and
 - (e) if there is discontinuity in the trend of surrender values—include the appropriate intervening years; and
 - (f) in the ‘Total paid in to date’ column, show cumulative totals of contributions paid to the end of each relevant year; and
 - (g) in the ‘Effect of charges and expenses to date’ column, show the figure calculated by taking the accumulated value of the fund without taking charges and expenses into account and then subtracting from that figure the figure in the ‘What you might get back’ column for the same year ; and
 - (h) in the ‘What you might get back’ column, show the projection of the surrender value for the policy calculated in accordance with COB 5.6.8 (Life policies—projection calculation rules) and accumulated at the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6 (2) (Life policies—illustrations), as the case requires; and
 - (i) if the Retail Client is entitled to exercise, and has chosen or expressed the intention to exercise, the right to make partial surrenders—include a column headed ‘Withdrawals’ showing the cumulative total of the withdrawals.
- (4) The Authorised Firm must include a statement at the bottom of the table expressing the effect of charges and expenses on the Life Policy in terms of a reduction in the rate of return.

Guidance

The reduction in the rate of return (**A**) may be calculated as follows:

$$A = B - C$$

where:

B is the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6(2), as the case requires.

C is the annual rate of return worked out by—

- (a) carrying out a projection using B; and
- (b) then calculating the annual rate of return (rounded to the nearest tenth of 1%) required to achieve the same projection value if charges and expenses were not taken into account.

5.6.8. Life policies—projection calculation rules

- (1) For COB 5.6.6 (Life policies—illustrations) and COB 5.6.7 (Life policies—effect of charges and expenses table), any projection of the surrender value of a Life Policy used in an illustration or an Effects of Charges and Expenses Table must be calculated in



accordance with a methodology and set of assumptions prepared and approved by the Approved Actuary of the AIFC Insurer preparing the Product Disclosure Document.

- (2) In preparing the methodology and assumptions mentioned in subrule (1), the Approved Actuary must have regard to relevant professional standards and any requirements of this division.
- (3) A projection must be specific to the Retail Client and be calculated on the basis of the Client's age and sex, the amount assured, the premium and other factors material to the Life Policy.
- (4) However, if a projection is calculated for the purposes of a financial promotion or in relation to a single premium Life Policy, it must be calculated on the basis of factors that represent the average member of the group to whom it is directed or by whom it is likely to be received.
- (5) In calculating the projection, contributions must be net of any rider benefits and extra premiums charged for increased underwriting benefits.

5.6.9. Life policies—provision of policy document

If an Authorised Firm finalises a Life Policy with or for a Client, the firm must, immediately after finalising the policy, give the Client, in a durable medium, a policy document containing all the terms of the policy.

5.6.10. Life policies—recordkeeping

- (1) An Authorised Firm must ensure that a copy of a Product Disclosure Document given by it to a Retail Client in relation to a Life Policy is made and kept for at least 6 years, unless the Client does not take out the policy.
- (2) An Authorised Firm must ensure that a copy of any other disclosure documentation given by it to a Retail Client in relation to a Life Policy is made and kept for at least 6 years, unless the Client does not take out the policy.
- (3) An Authorised Firm must ensure that a record of the methodology and set of assumptions prepared and approved by the Approved Actuary for COB 5.6.8 (1) for the firm is made and kept for at least 6 years after the day the methodology or set of assumptions is replaced by a new methodology or set of assumptions.
- (4) An Authorised Firm must ensure that a copy of each policy document given to a Client for a Life Policy under COB 5.6.9 is kept for at least 6 years after the day the policy ends.



8. CLIENT ASSETS

8.1. Application

8.1.1. Purpose of COB 8

The purpose of this section is providing protection for the Client, in the event that an Authorised Firm becomes insolvent or is otherwise unable to fulfil its obligations, in relation to any Money or Investments that are held by the Authorised Firm for that Client.

8.1.2. Application of COB 8

This section applies to an Authorised Firm which:

- (a) receives Money from, or holds or controls Money for or on behalf of, a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC;
- (b) holds or controls Instruments belonging to a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC; or
- (c) Provides Custody in or from the AIFC.

8.1.3. Meaning of "hold" and "control"

Client Assets are held or controlled by an Authorised Firm if they are:

- (a) directly held by the Authorised Firm;
- (b) held in an account in the name of the Authorised Firm;
- (c) held by a Person, or in an account in the name of a Person, controlled by the Authorised Firm; or
- (d) held in the Client's own name, but the Authorised Firm has a mandate from the Client to manage those assets on a discretionary basis.

Guidance: Examples of Client Assets controlled by an Authorised Firm

For the purposes of COB 8.1.3, the AFSA would consider:

- (i) a Person to be controlled by an Authorised Firm if that Person is inclined to act in accordance with the instructions of the Authorised Firm;
- (ii) an account to be controlled by an Authorised Firm if that account is operated in accordance with the instructions of the Authorised Firm; and
- (iii) if an Authorised Firm has a discretionary portfolio mandate from a Client, even though the assets are to be held in the name of the Client (for example, under a power of attorney arrangement), the Authorised Firm controls those assets as it can execute transactions relating to those assets, within the parameters set out in the mandate, in which situation the rules on mandates in COB 8.4 shall apply.



8.1.4. General requirements

An Authorised Firm which receives Money from, or holds Money for or on behalf of, a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC must comply with COB 8.2.

An Authorised Firm which holds Investments belonging to a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC or Provides Custody in or from the AIFC must comply with COB 8.3.

A Client whose Investments or Money is required to be held in compliance with either COB 8.2 or COB 8.3 is a "Segregated Client".

An Authorised Firm which controls Money or Investments belonging to a Client under a Mandate but does not receive or hold that Money or those Investments itself must comply with COB 8.4.

8.1.5. Arranging Custody

An Authorised Firm which Arranges Custody must comply with the requirements in COB 8.3.7 (on assessing the suitability of Third Party Account Providers), COB 8.3.13 (on disclosure), COB 8.3.14(2) (on client reporting) and COB 8.3.15 (on record keeping).

8.2. Client Money Rules: Investment Business

The rules in this COB 8.2 are the Client Money Rules.

8.2.1. Meaning of "Client Money"

All Money received or held on behalf of a Client in the course of, or in connection with, the carrying on of Investment Business in or from the AIFC is Client Money, except Money which is:

- (a) (where the Authorised Firm is a Bank) held as a deposit by the Authorised Firm;
- (b) due and payable by the Client to the Authorised Firm for the account of the Authorised Firm. Examples of situations where Money is due and payable to an Authorised Firm includes Money which is payable to the Authorised Firm in respect of its charges or a Client purchase or in settlement of a margin payment;
- (c) belongs to another Person within the Authorised Firm's Group (unless that Person notified the Authorised Firm in writing that the beneficial owner of the Money is a Person who is not part of the Authorised Firm's Group and has requested that the Client Money Rules should apply to such Money);
- (d) in an account in the Client's name over which the Authorised Firm has a Mandate or similar authority and which is subject to COB 8.4;
- (e) received in the form of a cheque, or other payable order, made payable to a third party other than a Person or account controlled by the Authorised Firm, provided the cheque or other payable order is intended to be forwarded to the third party within one business day of receipt; or
- (f) Fund Property of a Fund.

Where the Authorised Firm is a Bank and holds the Client's Money as a Deposit in accordance with (a) above, it must prior to providing the Investment Business in respect of that Money notify the Client in writing that:



- (a) the Money held by the Authorised Firm is held as a Deposit and will not be subject to the Client Money Rules; and
- (b) in the event that the Authorised Firm fails, the Client Money Distribution Rules will not apply.

8.2.2. Exclusion of the Client Money Rules

Where the Client is a Market Counterparty or a Professional Client, the Authorised Firm and the Client may agree to exclude the application of the Client Money Rules. Any such agreement with the Client must be in writing and must be entered into before the Authorised Firm provides Investment Business in respect of that Money.

Where the Authorised Firm proposes to exclude the application of the Client Money Rules under this COB 8.2.2, it must prior to obtaining the Client's agreement disclose to the Client in writing that the Money held by the Authorised Firm will not be subject to the protections conferred by the Client Money Rules.

8.2.3. General requirements

An Authorised Firm which receives or holds Client Money for a Segregated Client must:

- (a) comply with the Client Money Rules in relation to that Client Money; and
- (b) have systems and controls in place to be able to evidence its compliance with the Client Money Rules.

8.2.4. Client Money Accounts

A Client Money Account in relation to Client Money is an account which:

- (a) is held with a Third Party Account Provider;
- (b) is established for the purpose of holding Client Money;
- (c) is maintained in the name of the Authorised Firm or a Nominee Company controlled by the Authorised Firm; and
- (d) includes the words 'Client Account' in its title.

8.2.5. Requirement to pay Client Money into Client Money Account

Where an Authorised Firm receives or holds Client Money it must ensure (except where otherwise provided in COB 8.2.8) that the Client Money is paid into one or more Client Money Accounts within one day of receipt.

Where an Authorised Firm deposits any Money into a Client Money Account, such Money is Client Money until the Money is withdrawn from the Client Money Account in accordance with the Client Money Rules.

8.2.6. Client Money held for Segregated Clients in a Client Money Account

An Authorised Firm may hold Client Money belonging to a Segregated Client:

- (a) in a Client Money Account solely for that Client; or



- (b) in a Client Money Account containing the pooled Client Money of more than one Segregated Client.

8.2.7. Client Money Account to contain Client Money only

An Authorised Firm must:

- (a) not deposit its own Money into a Client Money Account, other than where:
 - (i) a minimum sum is required to open the Client Money Account, or to keep it open;
 - (ii) the Money is received by way of mixed remittance (provided the Authorised Firm transfers out that part of the payment which is not Client Money within one day of the day on which the Authorised Firm would normally expect the remittance to be cleared);
 - (iii) interest credited to the account exceeds the amount payable to Segregated Clients (provided that the Money is removed within twenty-five days); or
 - (iv) it is to meet a shortfall in Client Money;
- (b) maintain systems and controls for identifying Money which must not be in a Client Money Account and for transferring it without delay;
- (c) not use Client Money belonging to one Client to satisfy an obligation of another Client; and
- (d) ensure that no off-setting or debit balances occur on Client Money Accounts.

8.2.8. Exceptions to Holding Client Money in Client Money Accounts

The requirement for an Authorised Firm to pay Client Money into a Client Money Account does not apply with respect to Client Money:

- (a) received in the form of cheque, or other payable order, until the Authorised Firm, or a Person or account controlled by the Authorised Firm, is in receipt of the proceeds of that cheque;
- (b) temporarily held by an Authorised Firm before forwarding to a Person nominated by the Client; or
- (c) in connection with a Delivery Versus Payment Transaction where:
 - (i) in respect of a purchase by the Client, the Client Money will be due to the Authorised Firm within one day following the Authorised Firm's fulfilment of its delivery obligation to the Client; or
 - (ii) in respect of a sale by the Client, the Client Money will be due to the Client within one day following the Client's fulfilment of its delivery obligation to the Authorised Firm.

Where (b) or (c) apply, the Authorised Firm must pay the Client Money into a Client Money Account where it has not fulfilled its delivery or payment obligation within three days of receipt of the Money or Investments, except where the circumstances in (c)(ii) apply and the Authorised



Firm instead safeguards Client Investments of a value at least equal to the value of such Client Money.

An Authorised Firm must maintain adequate records of all cheques and payment orders received in accordance with (a) above including, in respect of each payment, the date of receipt, the name of the Client for whom payment is to be credited and the date on which the cheque or payment order was presented to the Authorised Firm's Third Party Account Provider. The records must be kept for a minimum of six years.

8.2.9. Conditions for use of Third Party Account Providers

Save as provided in this COB 8.2.9, an Authorised Firm may only pass, or permit to be passed, Client Money to a Third Party Account Provider if:

- (a) the Client Money is to be used in respect of a Transaction or series or Transactions for that Client;
- (b) the Client Money is to be used to meet an obligation of that Client;
- (c) the Third Party Account Provider is a Bank or a Regulated Financial Institution which is authorised to accept or take Deposits; or
- (d) the Client Money is put into a Shari'ah product that is offered by a Third Party Account Provider and that has been approved by the AFSA as being suitable for the holding of Client Money.

In respect of (a) and (b) above, an Authorised Firm must not hold the Client Money with the Third Party Account Provider longer than necessary to effect a Transaction or satisfy the Client's obligation.

8.2.10. Holding Client Money with Third Party Account Providers

An Authorised Firm may only pay, or permit to be paid, Client Money to a Third Party Account Provider pursuant to COB 8.2.9 (c) or (d) above where it has:

- (a) undertaken appropriate due diligence on the Third Party Account Provider and concluded on reasonable grounds that the Third Party Account Provider is suitable to hold that Client Money; and
- (b) confirmed that the laws and regulations of both:
 - (i) the jurisdiction in which the Client Money will be held; and
 - (ii) the jurisdiction in which the relevant Bank or Regulated Financial Institution is legally established (if different),

recognise that Client Money belongs beneficially to the Client and will not be available to satisfy any debts of the Bank or Regulated Financial Institution.

8.2.11. Due diligence on Third Party Account Providers

When undertaking due diligence on a Third Party Account Provider, an Authorised Firm should have regard to the following:

- (a) the following characteristics of the Third Party Account Provider:



- (i) its expertise and market reputation;
 - (ii) its credit rating;
 - (iii) its capital and financial resources;
 - (iv) the amount of Client Money placed, as a proportion of its overall capital and deposits;
 - (v) the extent to which the Client Money would be protected under a deposit guarantee protection scheme;
 - (vi) where such information is available, the level of risk in the investment and loan activities undertaken by it or members of its Group;
 - (vii) its use of agents and service providers; and
 - (viii) the financial position of its Group; and
- (b) (without prejudice to the obligation under (a) above) any legal requirements or market practices in the jurisdiction in which it is located (including the insolvency regime in that jurisdiction) which may adversely affect the protections available in respect of any Client Money placed with the Third Party Account Provider.

When assessing the suitability of the Third Party Account Provider, the Authorised Firm must ensure that the Third Party Account Provider will provide protections equivalent to the protections conferred by the Client Money Rules.

An Authorised Firm must have systems and controls in place to ensure that the Third Party Account Provider remains suitable to hold Client Money for its Segregated Clients. This includes undertaking appropriate due diligence, in the manner described above, on an ongoing basis.

An Authorised Firm must be able to demonstrate to the AIFC's satisfaction the grounds upon which the Authorised Firm considers the Third Party Account Provider to be suitable to hold that Client Money.

8.2.12. Obtaining written acknowledgments from Third Party Account Providers

When an Authorised Firm opens a Client Money Account with a Third Party Account Provider it must obtain a written acknowledgement from the Third Party Account Provider stating that:

- (a) the Third Party Account Provider is under an obligation to keep its own Money separate from the Money it holds for its Clients;
- (b) all Money standing to the credit of the account is held by the Authorised Firm as agent and that the Third Party Account Provider is not entitled to combine the account with any other account or to exercise any charge, mortgage, lien, right of set-off or counterclaim against Money in that account in respect of any sum owed to it on any other account of the Authorised Firm; and
- (c) the title of the account is, or will be, sufficient to distinguish that account from any account containing Money that belongs to the Authorised Firm.

The Authorised Firm must obtain the written acknowledgement referred to above prior to placing any Client Money into an account with the Third Party Account Provider.



8.2.13. Payments of Client Money from Client Money Accounts

Client Money must remain in a Client Money Account until it is:

- (a) due and payable to the Authorised Firm;
- (b) paid to the Client on whose behalf the Client Money is held or to a duly authorised representative of such Client;
- (c) paid in accordance with an instruction from the Client on whose behalf the Client Money is held;
- (d) required to meet the payment obligations of the Client on whose behalf the Client Money is held; or
- (e) paid out in circumstances that are otherwise authorised by the AIFC.

Money paid out by way of cheque or other payable order under this Rule must remain in a Client Money Account until the cheque or payable order is presented to the Client's bank and cleared by the paying agent.

8.2.14. Client Money arising from Client Investments

Money arising from, or in connection with, the holding of Client Investments and which is due to a Client must be treated as Client Money in accordance with the Client Money Rules.

8.2.15. Distribution Event

Following a Distribution Event, an Authorised Firm must comply with the Client Money Distribution Rules and all Client Money will be subject to such Rules.

8.2.16. Client Money Distribution Rules (Investment Business)

- (1) The requirements in this COB 8.2.16 are the Client Money Distribution Rules (Investment Business) and to the extent that these Rules are inconsistent with the AIFC Insolvency Regulations, these Rules will prevail.
- (2) Following a Distribution Event, the Authorised Firm must distribute Money in the following order of priorities:
 - (a) firstly, in relation to Client Money held in a Client Account on behalf of Segregated Clients, claims relating to that Money must be paid to each Segregated Client in full or, where insufficient funds are held in a Client Account, proportionately, in accordance with each Segregated Client's valid claim over that Money;
 - (b) secondly, where the amount of Client Money in a Client Account is insufficient to satisfy the claims of Segregated Clients in respect of that Money, or not being immediately available to satisfy such claims, all other Money held by the Authorised Firm must be used to satisfy any outstanding amounts remaining payable to Segregated Clients in respect of their Client Assets but not satisfied from the application of (a) above;
 - (c) thirdly, upon resolution of claims in relation to Segregated Clients, any Money remaining with the Authorised Firm must be paid to each Client in full or, where insufficient funds are held by the Authorised Firm, proportionately, in accordance with each Client's valid claim over that Money; and



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- (d) fourthly, upon satisfaction of all claims in (a), (b) and (c) above, in the event of:
 - (i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Authorised Firm or the Nominee Company, payment must be made in accordance with the AIFC Insolvency Regulations; or
 - (ii) all other Distribution Events, payment must be made in accordance with the direction of the AFSA.



8.5. Client money: Insurance Intermediation and Insurance Management

8.5.1. Application

COB 8.5 applies to an Insurance Intermediary or Insurance Manager that receives or holds Money for, or on behalf of, a Client in the course of carrying on Insurance Intermediation or Insurance Management.

8.5.2. Meaning of “Segregated Client”

A Client whose Money is required to be held in compliance with COB 11.8 is a "Segregated Client".

Guidance: Nature of Client Money in context of Insurance Intermediation and Insurance Management

Client Money in this context may includes the following to the extent that they are received or held by the Insurance Intermediary or Insurance Manager:

- (a) premiums, additional premiums and return premiums of all kinds;
- (b) claims and other payments due under Contracts of Insurance;
- (c) refunds;
- (d) fees, charges, taxes and similar fiscal levies relating to Contracts of Insurance; or
- (e) discounts, commissions and brokerage
- (f) monies received from or on behalf of a Client of an Insurance Manager, in relation to his Insurance Management business.

8.5.3. Exception

COB 8.5 does not apply to an Authorised Firm that receives or holds Client Money in accordance with the Rules in COB 8.2 (Client Money: Investment Business).

8.5.4. Client Money

All Money received or held on behalf of a Client in the course of, or in connection with, carrying on Insurance Intermediation or Insurance Management in or from the AIFC is Client Money, except Money which is:

- (a) due and payable by the Client to the Insurance Intermediary or Insurance Manager:
 - (i) for its own account; or
 - (ii) in its capacity as agent of an insurer where the Insurance Intermediary or Insurance Manager acts in accordance with COB 8.5.5 (Holding money as agent of an insurer);
- (b) otherwise received by the Insurance Intermediary or Insurance Manager under an arrangement made between an insurer and another Person that has authority to underwrite risks, settle claims, or handle refunds of premiums on behalf of that insurer outside the AIFC and where the Money relates to that business.



8.5.5. Holding money as agent of an insurer

Money received or held by an Insurance Intermediary or Insurance Manager is not Client Money for the purposes of this COB 8.5 where there is a written agreement in place between the Insurance Intermediary or Insurance Manager and the insurer to whom the relevant money is to be paid (or from whom they have been received) under which the insurer agrees that:

- (a) the Insurance Intermediary or Insurance **Manager holds as agent for the insurer all money received by it in connection with Contracts of Insurance effected or to be effected by the insurer;**
- (b) insurance cover is maintained for the Client once the money is received by the Insurance Intermediary; and
- (c) the insurer's obligation to make a payment to the Client is not discharged until actual receipt of the relevant money by the Client.

8.5.6. Duty to segregate Client Money

An Insurance Intermediary or Insurance Manager when dealing with Client Money must hold Client Money separate from its money. The Insurance Intermediary or Insurance Manager must segregate the Client Money by either:

- (a) paying it as soon as is practicable into a Client Money Account; or
- (b) paying it out in accordance with COB 8.5.7 (Money due to a Client from an Insurance Intermediary or Insurance Manager).

8.5.7. Money due to a Client from an Insurance Intermediary or Insurance Manager

If an Insurance Intermediary or Insurance **Manager is liable to pay Money to a Client, it must as soon as possible:**

- (a) pay the Money into a Client Money Account; or
- (b) pay it to, or to the order of, the Client.

8.5.8. Use of a Client Money Account

An Insurance Intermediary or Insurance Manager **must not hold Money other than Client Money in a Client Money Account, other than:**

- (a) a minimum sum required to open the Client Money Account, or to keep it open;
- (b) Money withdrawn as commission from the Client Money Account (where the Insurance Intermediary or Insurance Manager has received a premium from a Client or on behalf of the Client in accordance with its terms of business with that Client and the relevant insurer, and the commission is withdrawn before onward payment of that premium to the insurer);
- (c) Money received by way of mixed remittance (that is, part Client Money and part other Money) (provided the Insurance Intermediary or Insurance **Manager pays the full amount into the Client Money Account, and transfers out that part of the payment which is not Client Money not later than 25 days after the day on which the remittance is cleared;**



- (c) interest credited to the account which exceeds the amount payable to Clients as interest.

8.5.9. Client Money Account

An Insurance Intermediary or Insurance Manager must:

- (a) ensure that Client Money is held in one or more Client Money Accounts with one or more Third Party Account Providers;
- (b) take reasonable steps before opening a Client Money Account, and as often as is appropriate on a continuing basis (and no less than once in each financial year), to ensure that the Third Party Account Provider is appropriate for that purpose;
- (c) prior to operating a Client Money Account, give written notice to, and request written confirmation from, the Third Party Account Provider that the bank is not entitled to combine the Client Money Account with any other account unless that account is itself an Client Money Account held by the Authorised Firm, or to any charge, encumbrance, lien, right of set-off, compensation or retention against monies standing to the credit of the Client Money Account; and
- (d) ensure that each Client Money Account contains in its title the name of the Insurance Intermediary or Insurance Manager, together with the designation "Client Account".

Guidance: Due diligence

When assessing a Third Party Account Provider, an Insurance Intermediary or Insurance Manager should consider taking into account, among other matters:

- (a) the capital of the Third Party Account Provider;
- (b) the amount of Client Money placed, as a proportion of its overall capital and deposits;
- (c) the credit rating of the Third Party Account Provider (if available);
- (d) where such information is available, the level of risk in the investment and loan activities undertaken by it or members of its Group.

8.5.10. No confirmation from Third Party Account Provider

If a Third Party Account Provider has not provided the written confirmation referred to in COB 8.5.9(c) within 40 business days after the Authorised Firm made the request, the Authorised Firm must as soon as possible withdraw the Client Money held in the Client Money Account with that Third Party Account Provider and deposit them in a Client Money Account with another Third Party Account Provider.

8.5.11. Derivatives in management of Client Money

An Insurance Intermediary or Insurance Manager may not use derivatives in the management of Client Money except for the prudent management of foreign exchange risks.

8.5.12. Untraceable clients

An Insurance Intermediary or Insurance Manager that has a credit balance for a Client who cannot be traced should not take credit for such an amount except where:



- (a) he has taken reasonable steps to trace the Client and to inform him that he is entitled to the money; and
- (b) at least six years has lapsed from the date the credit was initially notified to the Client.

8.5.13. Record keeping

- (1) An Insurance Intermediary or Insurance Manager must keep a copy of any agreement entered into between an insurer and that Insurance Intermediary or Insurance Manager acting as agent pursuant to COB 8.5.5 (Holding money as agent of an insurer) for at least six years from the date on which that agreement is terminated.
- (2) An Insurance Intermediary or Insurance Manager must keep records of all sums withdrawn from the Insurance Bank Account as a result of credit taken under COB 8.5.12 (Untraceable clients) for at least six years from the date of withdrawal or realisation.

8.5.14. Distribution Event

Following a Distribution Event, an Insurance Intermediary or Insurance Manager must comply with the Client Money Distribution Rules and all Client Money will be subject to such Rules.

8.5.15. Client Money Distribution Rules (Insurance Intermediation and Insurance Management)

- (1) The requirements in this COB 8.5.15 are the Client Money Distribution Rules (Insurance Intermediation and Insurance Management) and to the extent that these Rules are inconsistent with the AIFC Insolvency Regulations, these Rules will prevail.
- (2) Following a Distribution Event, the Insurance Intermediary or Insurance Manager must distribute Money in the following order of priorities:
 - (a) firstly, in relation to Client Money held in a Client Account on behalf of Segregated Clients, claims relating to that Money must be paid to each Segregated Client in full or, where insufficient funds are held in a Client Account, proportionately, in accordance with each Segregated Client's valid claim over that Money;
 - (b) secondly, where the amount of Client Money in a Client Account is insufficient to satisfy the claims of Segregated Clients in respect of that Money, or not being immediately available to satisfy such claims, all other Money held by the Insurance Intermediary or Insurance Manager must be used to satisfy any outstanding amounts remaining payable to Segregated Clients but not satisfied from the application of (a) above;
 - (c) thirdly, upon resolution of claims in relation to Segregated Clients, any Money remaining with the Insurance Intermediary or Insurance Manager must be paid to each Client in full or, where insufficient funds are held by the Insurance Intermediary, proportionately, in accordance with each Client's valid claim over that Money; and
 - (d) fourthly, upon satisfaction of all claims in (a), (b) and (c) above, in the event of:
 - (i) the appointment of a liquidator, receiver or administrator, or trustee in bankruptcy over the Insurance Intermediary, payment must be made accordance with the AIFC Insolvency Regulations; or
 - (ii) all other Distribution Events, payment must be made in accordance with the direction of the AFSA.



8.5.16. Client reporting

In relation to each Client for whom it receives or holds Client Money, an Insurance Intermediary or Insurance Manager must provide at least once a year a statement of the Client Money.



11. INSURANCE INTERMEDIARIES

11.1. Application

11.1.1. General application

Subject to COB 11.1.2, an Insurance Intermediary licensed by the AFSA to provide Insurance Intermediation must comply with the Rules in this COB 11.

11.1.2. Professional Clients and Market Counterparties

An Insurance Intermediary providing Insurance Intermediation for a Market Counterparty is only required to comply with COB 11.3.1, 11.7.1, 11.7.2 and 11.8.

An Insurance Intermediary providing Insurance Intermediation for a Professional Client is required to comply with COB 11.2.1, 11.3., 11.4, 11.5.1, 11.5.3, 11.6.1, 11.7 and 11.8.

11.2. Disclosure requirements

11.2.1. General disclosure obligation

Prior to providing Insurance Intermediation to a Client, an Insurance Intermediary must disclose to that Client:

- (a) its name and address;
- (b) its regulatory status;
- (c) the name and address of the insurer or insurers effecting the Contract of Insurance;
- (d) if it has a direct or indirect holding representing 10% or more of the voting rights or capital in an insurer; or
- (e) if an insurer, or its parent undertaking, has a direct or indirect holding representing 10% or more of the voting rights or capital in the Insurance Intermediary;
- (f) contact details for notifying a claim under the Contract of Insurance; and
- (g) details of its complaints-handling procedure.

11.2.2. Disclosure of basis of advice

An Insurance Intermediary must, before providing Insurance Intermediation to a Retail Client, disclose whether:

- (a) it gives advice on the basis of a fair analysis of the market;
- (b) it has a contractual agreement with a particular insurer or insurers to offer only their Contracts of Insurance to Clients; or
- (c) even if there are no contractual agreements of the type referred to in (b), it does not give advice on the basis of a fair analysis of the market.

If (b) or (c) applies, the Insurance Intermediary must be prepared to provide a Retail Client on request with a list of insurers with whom it deals and may deal in relation to the relevant Contracts of Insurance.



11.3. Disclosure of costs and remuneration

11.3.1. Disclosure of costs

An Insurance Intermediary must provide details of the costs of each Contract of Insurance or Insurance Intermediation service offered to a Client.

11.3.2. Disclosure of new costs

An Insurance Intermediary must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

11.3.3. Disclosure of commissions and other benefits

An Insurance Intermediary must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Intermediation for that Client.

11.4. Obligation on Client to disclose material facts

An Insurance Intermediary must explain to a Client:

- (a) the Client's duty to disclose all material facts in relation to the risk covered by the insurance before the insurance cover commences and throughout the lifetime of the policy; and
- (b) the consequences of any failure by the Client to disclose such material facts.

11.5. Statement of demands and needs

11.5.1. Providing a statement of demands and needs

Prior to the conclusion of a Contract of Insurance, an Insurance Intermediary must provide the Client with a statement of the demands and the needs of that Client, which may be in summary form, as well as the underlying reasons for any advice given to the Client in relation to that Contract of Insurance.

Guidance: Nature of statement of demands and needs

The statement should be provided in writing, but may be provided verbally where the Client requests it, or where immediate cover is necessary.

11.5.2. Ensuring suitability based on demands and needs

An Insurance Intermediary must only make a recommendation to a Retail Client to enter into a Contract of Insurance that is General Insurance where it has taken reasonable steps to ensure that the recommended Contract of Insurance is suitable in light of the Client's demands and needs.

11.5.3. Written confirmation of instructions

Where an Insurance Intermediary is instructed to obtain insurance, which is contrary to the advice that it has given to a Client, the Insurance Intermediary must obtain from the Client written confirmation of the Client's instructions before arranging or buying the relevant insurance.



11.6. Information about Contract of Insurance

11.6.1. Adequate information

An Insurance Intermediary must provide adequate information in good time and in a comprehensible form to enable a Client to make an informed decision about whether or not to enter a Contract of Insurance proposed by the Insurance Intermediary.

11.6.2. Policy summary

An Insurance Intermediary must provide a Retail Client with a policy summary explaining the terms of the Contract of Insurance:

- (a) the name of the insurer;
- (b) type of insurance and cover;
- (c) significant features and benefits;
- (d) significant or unusual exclusions or limitations;
- (e) applicable period of cover;
- (f) a statement, where relevant, that the consumer may need to review and update the cover periodically to ensure it remains adequate;
- (g) the procedure for handling complaints; and
- (h) contact details for notifying a claim.

11.7. Other requirements

11.7.1. Quotations

When giving a quotation, an Insurance Intermediary must take due care to ensure the accuracy of the quotation and its ability to obtain the insurance at the quoted terms.

11.7.2. Confirmation of cover

Where a Client concludes a Contract of Insurance, an Insurance Intermediary must, as soon as reasonably practicable, provide that Client with:

- (a) written confirmation and details of the insurance, including any changes to an existing Contract of Insurance; and
- (b) the full policy documentation.

11.7.3. Amendments

An Insurance Intermediary must:

- (a) respond promptly if a Client requests an amendment to its insurance policy;
- (b) provide the Client with details of any additional premium or charges that may need to be paid or which may be returned; and



- (c) provide the Client with written confirmation of any amendment and return any premium or charges due to the Client promptly.

11.7.4. Advance notification

If the insurance cover of a Client is due to expire or needs to be renewed, the Insurance Intermediary must give sufficient advance notification to the Client to allow that Client to consider whether it wishes to enter into a new policy or renew its existing policy.

11.7.5. Documentation on expiry or cancellation

When the insurance expires or is cancelled, an Insurance Intermediary must on request provide the Client with the documentation and information to which that Client is entitled.

11.7.6. Claims—general requirements

Where an Insurance Intermediary handles claims it must:

- (a) handle claims promptly and fairly;
- (b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;
- (c) not unreasonably reject a claim (including by terminating or avoiding a policy); and
- (d) settle claims promptly once settlement terms are agreed.

11.7.7. Claims handling—recordkeeping

- (1) An Insurance Intermediary must make a record of the following information in relation to each claim made against a policy handled by it:
 - (a) details of the claim;
 - (b) the date the claim was settled or rejected;
 - (c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.
- (2) The Insurance Intermediary must keep the record for at least 3 years after the day the claim is settled or rejected.



18. BANKS

18.1. Application

This chapter applies to an Authorised Firm that is licensed by the AFSA to conduct the Regulated Activity of Accepting Deposits.

An Authorised Firm that is licensed to conduct the Regulated Activity of Accepting Deposits is defined as a Bank in BBR 1.5.

18.2. Accepting Deposits

A Bank, in the course of Accepting Deposits, must not accept Deposits from Retail Clients.

18.3. Terms of business for Accepting Deposits — general requirements

- (1) A Bank accepting a Deposit from a Client must give the Client its terms of business, before the acceptance of the first Deposit from that Client.
- (2) This rule does not apply if the activity of Accepting Deposits is carried on after the termination of the terms of business and the Bank is acting only for the purposes of fulfilling any obligations that remain outstanding under the terms of business.

18.4. Terms of business for Accepting Deposits — contract

- (1) A Bank must ensure that its terms of business for accepting a Deposit from a Client contain, in adequate detail, the basis on which it will accept the Deposit from that Client.
- (2) Without limiting (1), the Bank must ensure that the terms of business contain the information as specified by the rules in this chapter (Minimum content of terms of business— Accepting Deposits).
- (3) A Bank is not required to include information in the terms of business if the information is, by its nature, unavailable when the terms of business are given to the Client. If such information becomes available after the terms of business are given to the Client, the Bank must give the information to the Client as soon as practicable after it becomes available to the Bank.

18.5. Terms of business for Accepting Deposits — multiple documents

A Bank's terms of business for a Client for the activity of Accepting Deposits may consist of one or more documents if it is made clear to the Client that collectively they make up the terms of business.

18.6. Terms of business for Accepting Deposits — amendment

If the terms of business of a Bank for a Client for the activity of Accepting Deposits allow the Bank to amend the terms of business without the Client's agreement, the Bank must not conduct business with or for the Client on the basis of an amendment of the terms of business unless the Bank has given the Client written notice of the amendment:

- (a) at least 10 business days before the amendment is to take effect; or
- (b) if it is impractical to give that notice, as early as is practicable.



18.7. Terms of business for Accepting Deposits — recordkeeping

A Bank must keep a copy of a terms of business that it gives a Client under this chapter, and of each amendment of the terms of business, for at least 6 years after the day the Bank ceases to conduct business with or for the Client under the terms of business.

18.8. Terms of business for Accepting Deposits — minimum content

- (1) Commencement of the terms of business – when and how the terms come into force.
- (2) Regulatory status of the Bank as required by the GEN Rules.
- (3) The services to be provided by the Bank, including, if applicable, the provision of credit, cheque clearing and provision of statements.
- (4) The Bank's fee payment terms, including, if appropriate
 - (a) how fees are calculated; and
 - (b) how fees are to be paid and collected; and
 - (c) how frequently fees are to be paid; and
 - (d) whether any other payment is receivable by the Bank (or to its knowledge by any members of its Group) instead of fees in relation to a transaction executed by the Bank with or for the Client.
- (5) The Bank's terms relating to interest, including, if appropriate
 - (a) how interest is calculated for both debit and credit balances; and
 - (b) how interest is paid or collected depending on whether the account is having debit or credit balances; and
 - (c) how frequently interest is charged and paid.
- (6) The Bank's approach to dealing with any applicable conflicts of interest and material interests.
- (7) Information about the Bank's internal complaint handling procedures, including information about how a complaint may be made to the Bank.
- (8) The details of the arrangement for the Client to provide instructions to the Bank and for the Bank to acknowledge such instructions.
- (9) Method of terminating account relationships, either by the bank or by the Client and the consequences of termination in either case.



19. CONDUCT OF INSURANCE BUSINESS

19.1. Insurance business—general

19.1.1. Application

This chapter applies to Insurers.

19.2. Cancelling Life Policies—Retail Clients

19.2.1. New Life Policies—right to cancel

Subject to COB 19.2.3 and 19.2.4, a Retail Client has a right to cancel a new Life Policy effected by an Insurer.

Guidance

An Insurer may voluntarily provide additional cancellation rights, or rights exercisable during a longer period than allowed under COB 19.2, but, if it does so, these should be on terms similar to those in COB 19.2.

19.2.2. Variations of Life Policies—right to cancel

- (1) Subject to COB 19.2.3 and 19.2.4, a Retail Client has a right to cancel an existing Life Policy effected by an Insurer if the policy is varied and the variation has the effect of—
 - (a) increasing regular premiums or payments, or a single premium or payment, by more than 25% on the original premium or payment (or the previous highest agreed premium or payment); or
 - (b) introducing fresh policy terms; or
 - (c) imposing on the Client additional or increased obligations under the policy; or
 - (d) reducing, or otherwise materially altering, the Client's benefits under the policy.
- (2) This rule does not apply to the variation of a Life Policy if—
 - (a) the variation is the result of a pre-selected option; or
 - (b) the variation arises out of the settlement of a claim for damages or compensation connected with a previous contract.

19.2.3. Life policies—when cancellation right can be exercised

- (1) A Retail Client may exercise a cancellation right in relation to a Life Policy effected by an Insurer with the Client only during the cancellation period for the investment.
- (2) For a new Life Policy, the cancellation period—
 - (a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client a policy document containing all the terms of the policy under COB 5.6.9 (Life policies—provision of policy document); and
 - (b) ends at the end of 30 days after that day.



- (3) For an existing Life Policy that is varied, the cancellation period—
 - (a) starts on the later of the following:
 - (i) the day the Insurer, or relevant Insurance Intermediary, tells the Retail Client that the variation has taken effect;
 - (ii) the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client a written copy of the variation;
 - (iii) the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the Product Disclosure Document or disclosure documentation required by COB 5.6.2 (Product disclosure document—provision requirement) for the variation; and
 - (b) ends at the end of the 30 days after that day.

19.2.4. Life policies—exercising cancellation right

- (1) This rule applies if a Retail Client has a right under COB 19.2.1 (New Life Policies—right to cancel) or COB 19.2.2 (Variations of Life Policies—right to cancel) to cancel a Life Policy effected by an Insurer with the Client.
- (2) The Retail Client may exercise the cancellation right by giving notice of the exercise of the right to the Insurer in a durable medium.
- (3) Without limiting subrule (2), if the Retail Client exercises the right in accordance with information given to the Client by the Insurer, the Client is taken to have complied with the subrule.
- (4) The notice need not use any particular form of words and it is sufficient if the intention to exercise the right is reasonably clear from the notice or the notice and the surrounding circumstances.
- (5) The notice need not give reasons for the exercise of the right.
- (6) If the Retail Client exercises the cancellation right by sending notice to the Insurer at the address given to the Client by the firm for the exercise of the right and the notice is in a durable form accessible to the firm, the notice is taken to have been given to the firm when it is sent to the firm at that address.

19.2.5. Life policies—consequences of cancellation

- (1) This rule applies if a Retail Client exercises a right under COB 19.2.1 or COB 19.2.2 to cancel a Life Policy effected by an Insurer with the Client.
- (2) The Life Policy is terminated.
- (3) For a new Life Policy, the Insurer must pay the Retail Client an amount equal to the total of the amounts paid by the Client in relation to the Life Policy.
- (4) The amount must be paid to the Retail Client without delay and no later than 30 days after the day the cancellation right is exercised.
- (5) For a new Life Policy, the Retail Client must, if required by the Insurer, pay the firm an amount of no more than the total of—



- (a) amounts received, and the value of property or services received, by the Client in relation to the Life Policy; and
 - (b) losses incurred by the firm because of market movements in relation to relevant contracts if the losses are incurred on or before the day the cancellation right is exercised.
- (6) Subrule (5) only applies if the Insurer can demonstrate that the Retail Client was given, under COB 5.6.2 (Product disclosure document—provision requirement), details of the amount that the Client may be required to pay if the Client cancelled the contract.
- (7) However, subrule (5) (b) does not apply in relation to a contract established on a regular or recurring premium or payment basis.
- (8) An amount payable by the Retail Client under subrule (5) must be paid to the Insurer without delay and no later than 21 days after the day the Client receives written notice from the firm requiring payment of the amount.
- (9) For an existing Life Policy, the Insurer must pay the Retail Client an amount equal to the cash surrender value (if any) of the policy.
- (10) The amount must be paid to the Retail Client without delay and no later than 30 days after the day the cancellation right is exercised.
- (11) Any amounts payable under this rule are simple contract debts and, for a new Life Policy, the amounts payable may be set off against each other.

19.3. Cancelling Non-Investment Insurance Contracts

19.3.1. Non-Investment Insurance Contracts —right to cancel

- (1) Subject to COB 19.3.2 and 19.3.3, a Retail Client has a right to cancel a Non-Investment Insurance Contract effected by an Insurer.
- (2) This rule does not apply to the following contracts:
 - (a) a Non-Investment Insurance Contract that provides cover for less than 1 month;
 - (b) a Non-Investment Insurance Contract that has been fully performed by both parties at the Retail Client's express request before the Client purports to exercise the right to cancel;
 - (c) a Non-Investment Insurance Contract that is a Pure Protection Contract with a term of 6 months or less.
- (3) To remove any doubt, a Retail Client has a right to cancel a Non-Investment Insurance Contract when the contract is initially entered into and on each renewal of the contract.

Guidance

- 1 An Insurer may voluntarily provide additional cancellation rights, or rights exercisable during a longer period than allowed under COB 19.3, but, if it does so, these should be on terms similar to those in COB 19.3.
- 2 For COB 19.3.1 (2) (b)—



- (a) a contract is not fully performed only because an event has happened that allows a claim to be made under the contract; and
 - (b) a contract is fully performed if a claim has been made that leads to the contract being terminated.
- 3 Cancellation under this part applies only during the initial period of cover. It does not refer to mid-term cancellation that an Insurer may choose to offer its Clients.
- 4 The cancellation rights described in this part apply to all renewals and not just those where there have been significant changes.

19.3.2. Non-Investment Insurance Contracts—when cancellation right can be exercised

- (1) A Retail Client may exercise a cancellation right under COB 19.3.1 in relation to a Non-Investment Insurance Contract only during the cancellation period for the contract.
- (2) For a Non-Investment Insurance Contract that is a Pure Protection Contract, the cancellation period—
 - (a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the policy document and information required by COB 11.7.2 (Confirmation of cover); and
 - (b) ends at the end of 30 days after that day.
- (3) For a Non-Investment Insurance Contract that is a General Insurance Contract, the cancellation period—
 - (a) starts on the day the Insurer, or relevant Insurance Intermediary, gives the Retail Client the policy document and information required by COB 11.7.2 (Confirmation of cover); and
 - (b) ends at the end of 14 days after that day.
- (4) If a Non-Investment Insurance Contract is a mixed contract, that is, it has elements of both a Pure Protection Contract and a General Insurance Contract, subrule (2) applies to the contract and subrule (3) does not apply to the contract.

19.3.3. Non-Investment Insurance Contracts—exercising cancellation right

- (1) This rule applies if a Retail Client has a right under COB 19.3.1 to cancel a Non-Investment Insurance Contract effected by an Insurer.
- (2) The Retail Client may exercise the cancellation right by giving notice of the exercise of the right to—
 - (a) the Insurer; or
 - (b) any agent of the Insurer with authority to accept notice for the firm.
- (3) Without limiting subrule (2), if the Retail Client exercises the right in accordance with information given to the Client in accordance with COB 11.7.2 (Confirmation of cover), the Client is taken to have complied with the subrule.
- (4) The notice may be given orally.



- (5) The notice need not use any particular form of words and it is sufficient if the intention to exercise the right is reasonably clear from the notice or the notice and the surrounding circumstances.
- (6) The notice need not give reasons for the exercise of the right.
- (7) If the Retail Client exercises the cancellation right by sending notice to the Authorised Firm at the address given to the Client by the firm for the exercise of the right and the notice is in a durable form accessible to the firm, the notice is taken to have been given to the firm when it is sent to the firm at that address.

19.3.4. Non-Investment Insurance Contracts—consequences of cancellation

- (1) This rule applies if a Retail Client exercises a right under COB 19.3.1 to cancel a Non-Investment Insurance Contract effected by an Insurer.
- (2) The Contract of Insurance is terminated.
- (3) The Insurer must pay to the Retail Client an amount equal to the total of the amounts paid by the Client for the Contract of Insurance.
- (4) The amount must be paid to the Retail Client without delay and not later than 21 days after the day the cancellation right is exercised.
- (5) If the Contract of Insurance is a General Insurance Contract, the Retail Client must, if required by the Insurer, pay the firm an amount of no more than the total of—
 - (a) the value of the services the firm actually provided to the Client in relation to the Contract of Insurance; and
 - (b) amounts received, and the value of property or services received, by the Client in relation to the Contract of Insurance.
- (6) However, the Insurer may only require the Retail Client to pay an amount under subrule (5) if—
 - (a) the performance of the Contract of Insurance started before the end of the cancellation period at the Client's request; and
 - (b) the Insurer can demonstrate that the Client was, under COB 11.7.2 (Confirmation of cover), given details of the amount that the Client may be required to pay if the Client cancelled the contract.
- (7) The Insurer must not require the Retail Client to pay an amount under subrule (5) that could be taken to be a penalty or that exceeds the sum of
 - (a) the costs (other than costs for the cover provided under the insurance policy) actually incurred by the Insurer in relation to the insurance policy; and
 - (b) the cost to the Insurer of the cover actually provided to the Client under the insurance policy.

Guidance for COB 19.3.4 (7) and (8)

- 1 The amount calculated under COB 19.3.4 (7) may include—



- (a) an amount for the cover provided; and
 - (b) a proportion of the commission paid to another Authorised Firm sufficient to cover that firm's costs; and
 - (c) a proportion of any fees charged by the Authorised Firm that, when totalled with any commission to be repaid, would be sufficient to cover the firm's costs.
- 2 The AFSA would expect the proportion of the Contract of Insurance's exposure that relates to the time on risk to be a proportional apportionment. But, if there is material unevenness in the incidence of risk, the Insurer could employ a more accurate method, which may result in a lower or higher charge to the Retail Client.
- (9) An amount that the Insurer requires the Retail Client to pay under subrule (5) must not take into account or include an amount received, or the value of any property or services received, by the Client in relation to a claim under the insurance policy.
 - (10) An amount payable by the Retail Client under subrule (5) must be paid to the Insurer without delay and no later than 30 days after the day the Client receives written notice from the firm requiring payment of the amount.
 - (11) Any amounts payable under this rule are simple contract debts and may be set off against each other.

19.4. **Cancelling Contracts of Insurance—recordkeeping**

19.4.1. **Contracts of Insurance cancellation—recordkeeping**

- (1) An Insurer must make appropriate records about the exercise of a right to cancel under COB 19.2 (Cancelling Life Policies—Retail Clients) or COB 19.3 (Cancelling Non-Investment Insurance Contracts).
- (2) The records must be kept for at least 6 years after the day the right is exercised.

19.5. **Claims handling**

19.5.1. **Claims handling—general requirements**

An Insurer must:

- (a) handle claims promptly and fairly;
- (b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;
- (c) (including by terminating or avoiding a policy); and
- (d) settle claims promptly once settlement terms are agreed.

19.5.2. **Claims handling—recordkeeping**

- (1) An Insurer must make a record of the following information in relation to each claim made against a policy issued by it or handled by it:
 - (a) details of the claim;



- (b) the date the claim was settled or rejected;
 - (c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.
- (2) The Insurer must keep the record for at least 3 years after the day the claim is settled or rejected.



20. INSURANCE MANAGEMENT

Guidance: Outsourcing to Insurance Managers

An Insurer may outsource functions or activities directly related to the Regulated Activities of Effecting or Carrying on Contracts of Insurance to a service provider, including an Insurance Manager, subject to the provisions of GEN 5.2 (Outsourcing).

In addition to the obligations placed directly upon Insurance Managers in this Chapter, where an Insurer outsources functions to an Insurance Manager, the Insurer remains responsible for the compliance of the Insurance Manager with the Framework Regulations and Rules (pursuant to GEN 5.2.1) and the outsourced function is deemed to be carried out by the Insurer itself (pursuant to GEN 5.2.2).

20.1. Application

20.1.1. General application

This chapter applies to an Insurance Manager – i.e. Authorised Firm that is licensed by the AFSA to conduct the Regulated Activity of Insurance Management.

20.2. General

20.2.1. Provision of Insurance Management services

- (1) Subject to (2), an Insurance Manager may provide Insurance Management services to both Insurers (including both AIFC-Incorporated Insurers and Branches) and Non-AIFC insurers (i.e. insurers operating entirely outside the AIFC).
- (2) An Insurance Manager must not underwrite on behalf of a Non-AIFC insurer in relation to a Contract of Insurance with or for a Retail Client, unless the Insurance Manager has obtained the prior written approval of the AFSA in respect of that insurer.

Guidance: AFSA approval of underwriting on behalf of Non-AIFC Insurer

For the purposes of COB 20.2.1(2), an Insurance Manager should submit to the AFSA sufficient information to establish that the Non-AIFC insurer for which it proposes to act is fit and proper and is subject to adequate regulation in its home jurisdiction.

20.2.2. Meaning of Client

For the purposes of this Chapter, the Client of an Insurance Manager is any Policyholder or potential Policyholder with whom the Insurance Manager interacts when carrying on its Insurance Management activities.

20.3. Disclosure requirements

20.3.1. General disclosure obligation

Prior to providing Insurance Management services to a Client, an Insurance Manager must disclose to that Client:

- (a) its name and address;
- (b) its regulatory status; and



- (c) details of its complaints-handling procedure.

20.3.2. Disclosure of costs

An Insurance Manager must provide details of the costs of Insurance Management service offered to a Client.

20.3.3. Disclosure of new costs

An Insurance Manager must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

20.3.4. Disclosure of commissions and other benefits

An Insurance Manager must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Management for that Client.

20.4. Claims handling

20.4.1. Claims handling—general requirements

Where an Insurance Manager handles claims it must:

- (a) handle claims promptly and fairly;
- (b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;
- (c) not unreasonably reject a claim (including by terminating or avoiding a policy); and
- (d) settle claims promptly once settlement terms are agreed.

20.4.2. Claims handling—recordkeeping

- (1) An Insurance Manager must make a record of the following information in relation to each claim made against a policy handled by it:
 - (a) details of the claim;
 - (b) the date the claim was settled or rejected;
 - (c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.
- (2) The Insurance Manager must keep the record for at least 3 years after the day the claim is settled or rejected.

**SCHEDULE 3: TRADE CONFIRMATION**

1.	GENERAL INFORMATION
	<p>An Authorised Firm must include the following general information in a trade confirmation:</p> <ul style="list-style-type: none">(a) the Authorised Firm's name and address;(b) whether the Authorised Firm Executed the Transaction as principal or agent;(c) the Client's name, account number or other identifier;(d) a description of the Investment or Fund, including the amount invested or number of units involved;(e) whether the Transaction is a sale or purchase;(f) the price or Unit price at which the Transaction was Executed;(g) if applicable, a statement that the Transaction was Executed on an Execution-Only basis;(h) the date and time of the Transaction;(i) the total amount payable and the date on which it is due;(j) the amount of the Authorised Firms charges in connection with the Transaction, including Commission charges and the amount of any Mark-up or Mark-down, Fees, taxes or duties;(k) the amount or basis of any charges shared with another Person or statement that this will be made available on request; and(l) for Collective Investment Funds, at statement that the price at which the Transaction has been Executed is on a Historic Price or Forward Price basis, as the case may be.
	<p>An Authorised Firm may combine items (f) and (j) in respect of a Transaction where the Client has requested a note showing a single price combining both of these items.</p>
2.	ADDITIONAL INFORMATION: DERIVATIVES
	<p>In relation to Transactions in Derivatives, an Authorised Firm must include the following additional information:</p>
	<ul style="list-style-type: none">(a) the maturity, delivery or expiry date of the Derivative;



	<ul style="list-style-type: none">(b) in the case of an Option, the date of exercise or a reference to the last exercise date;(c) whether the exercise creates a sale or purchase in the underlying asset;(d) the strike price of the Option; and(e) if the Transaction closes out an open Futures position, all essential details required in respect of each contract comprised in the open position and each contract by which it was closed out and the profit or loss to the Client arising out of closing out that position (a difference account).
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AMENDMENTS No. 2.2
AIFC CONDUCT OF BUSINESS RULES

Approval Date: 2 December 2018
Commencement Date: 2 December 2018

Nur-Sultan, Kazakhstan



In this section, the underlining indicates a new text and the striking through indicates deleted text in the proposed amendments.

5. ~~SUITABILITY AND APPROPRIATENESS~~ CONDUCT OF INVESTMENT BUSINESS

5.1. Application

5.1.1. Application of requirement to assess suitability

COB 5.2 applies where an Authorised Firm:

- (a) Advises on Investments; or
- (b) Manages Investments.

5.1.2. Application of requirement to assess appropriateness

COB 5.3 applies where an Authorised Firm is:

- (a) Dealing in Investments as Principal;
- (b) Dealing in Investments as Agent, or
- (c) receiving and transmitting orders for a Client,

and is not Advising on Investments or Managing Investments.

Guidance: Receiving and transmitting orders

An Authorised Firm carries on this activity of "receiving and transmitting orders" if it both receives an order from a Client for a transaction in an Investment and transmits it to another party, such as a broker, for execution or for onward transmission to the executing broker or venue.

5.1.3. Market Counterparties

COB 5 does not apply where the Authorised Firm provides a Financial Service to a Market Counterparty.

5.6. Packaged products—additional disclosure

5.6.1. Product disclosure document—preparation

An Authorised Firm must prepare a Product Disclosure Document for each Packaged Product it produces.

5.6.2. Product disclosure document—provision requirement

(1) An Authorised Firm (the selling firm) must not sell, or arrange for the sale of, a Packaged Product to a Retail Client unless it has given the Client, not later than a reasonable time before the Client becomes contractually bound in relation to the sale of the Packaged Product—

(a) a Product Disclosure Document for the Packaged Product; or

(b) if the Packaged Product was produced by another Authorised Firm—a Product Disclosure Document that complies with subrule (2); or



- (c) if the Packaged Product was produced by a person in a jurisdiction other than the AIFC—disclosure documentation that complies with subrule (3).
- (2) If the Packaged Product was produced by another Authorised Firm, the Product Disclosure Document given to the Retail Client under subrule (1) (b)—

 - (a) must be the Product Disclosure Document prepared by the other Authorised Firm; but
 - (b) must prominently display each of the following:

 - (i) the name of the selling firm;
 - (ii) either the address of the selling firm or a contact point from which the address is available;
 - (iii) the selling firm’s regulatory status.
- (3) If the Packaged Product was produced by a person in a jurisdiction other than the AIFC, the disclosure documentation given to the Retail Client under subrule (1) (c) complies with this subrule if:

 - (a) the selling firm is satisfied on reasonable grounds that—

 - (i) the disclosure documentation was prepared by the person in accordance with the requirements of the law of the other jurisdiction; and
 - (ii) those requirements are broadly equivalent to the requirements of this division; and
 - (b) the disclosure documentation prominently displays:

 - (i) the information mentioned in subrule (2) (b) (i) to (iii); and
 - (ii) if the Packaged Product is a Life Policy or a Family Takaful Contract:

 - (A) a statement to the effect that the person who produced the Packaged Product (the insurer or the Takaful Operator) is not authorised or regulated by the AFSA; and
 - (B) an explanation of any differences between the cancellation rights (if any) applying in relation to the Packaged Product (including the length of any period to exercise the rights) and those that would be provided under these rules if the insurer or the Takaful Operator as the case may be, were an Authorised Firm; and
 - (C) a warning to the effect that the claims handling procedures applying in relation to the Packaged Product may differ from those provided under these rules.
- (4) If a Life Policy or a Family Takaful Contract sold by an Authorised Firm to a Retail Client is varied and, because of the variation, the Client has a right to cancel the relevant Life Policy or the Family Takaful Contract as the case may be, under COB 19.2.2 (Variations of Life Policies or Family Takaful Contract —right to cancel), the firm must:



- (a) update the document that it gave the Client under subrule (1) in relation to the Life Policy or the Family Takaful Contract to reflect the variation; and
- (b) give a copy of the updated document to the Client.

Guidance for COB 5.6.2 (2) and (3)

- 1 An Authorised Firm may comply with COB 5.6.2 (2) (b) or (3) (b) by including the required information in a sticker or wrapper attached to the Product Disclosure Document or disclosure documentation.
- 2 The purpose of COB 5.6.2 (3) is to allow an Authorised Firm to give disclosure documentation that meets the disclosure objectives of a Product Disclosure Document, even if the form or content is different in matters of detail from that required by this division. For example, an Authorised Firm could provide a disclosure document that uses a projection or illustration prepared in accordance with rules prescribed by an overseas regulator, if these ensure a fair projection based on objective and reasonable assumptions.

5.6.3. Product disclosure document—form

An Authorised Firm must ensure that a Product Disclosure Document given by it to a Retail Client for a Packaged Product—

- (a) is produced and presented to at least the same quality and standard as the sales or marketing material used by it to promote the Packaged Product; and
- (b) is separate from any other material given to the Client; and
- (c) displays the product provider's brand at least as prominently as any other brand displayed; and
- (d) does not disguise, diminish or obscure important items, statements or warnings.

5.6.4. Product disclosure document—content

- (1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Packaged Product includes each of the following:
 - (a) the firm's name;
 - (b) either the address of the firm or a contact point from which the address is available;
 - (c) the firm's regulatory status;
 - (d) the following statement prominently displayed:

'The Astana Financial Services Authority is the independent financial services regulator for the Astana International Financial Centre. It requires us, [insert Authorised Firm's name], to give you this important information to help you to decide whether this [insert 'product' or product name] is right for you. You should read this document carefully so that you understand what you are buying, and then keep it safely for future reference.'



- (e) a description, appropriate for the Packaged Product's complexity, of its nature, its particular characteristics, how it works, and any limitations or minimum standards that apply;
 - (f) enough information about the material benefits and risks of buying the product for a Retail Client to be able to make an informed decision about whether to buy;
 - (g) the availability of the firm's internal complaint-handling procedures and how a complaint may be made to the firm;
 - (h) whether there is a right to cancel and, if there is a right to cancel, the consequences of exercising this right, and enough details to enable the right to be exercised by a Retail Client.
- (2) An Authorised Firm must not, in a Product Disclosure Document prepared by it, do or say (or fail to do or say) anything that might reasonably lead a Retail Client to be mistaken about the product provider's identity.

5.6.5. Life policies and Family Takaful Contracts —additional content

- (1) An Authorised Firm must ensure that a Product Disclosure Document prepared by it for a Life Policy or for a Family Takaful Contract, intended to be sold to a Retail Client includes the following:
- (a) a definition of each benefit and option;
 - (b) the term of the contract;
 - (c) details of how the contract may be terminated;
 - (d) how and when premiums are payable;
 - (e) details of how bonuses are calculated and distributed, including the following information:
 - (i) how profits that are allocated for the payment of bonuses are distributed;
 - (ii) whether increased benefits resulting from bonuses are payable (subject to any adjustments) even if the contract is terminated early by either party to the contract;
 - (iii) if bonuses increase benefits—whether increases are likely to be made each year or only when the policy amounts become payable to the policyholder;
 - (iv) the basis on which bonuses are distributed to policyholders;
 - (v) whether policies share equitably in the allocation of all the profits of the long-term fund, or only certain elements of the profits;
 - (f) an illustration prepared in accordance with COB 5.6.6 (Life policies or Family Takaful Contracts —illustrations), except if the benefits of the Life Policy or Family Takaful Contract do not depend on future investment returns;
 - (g) information about charges and expenses that, subject to sub-rule (2), includes—



- (i) a description of the nature of the charges and expenses the Retail Client will, or may be expected to, pay; and
- (ii) 2 tables (one for the lower projection, and the other for the higher projection, calculated on the basis of a rate of return mentioned in COB 5.6.6 (2)), each prepared in accordance with COB 5.6.7 (Life policies—effect of charges and expenses table) illustrating the effect of charges and expenses on the policy;
- (h) information on premiums or Takaful Contributions for each benefit, including, if appropriate, both main benefits and supplementary benefits;
- (i) if the Retail Client has been charged for rider benefits or increased underwriting benefits—the amount of premiums charged for those benefits;
- (j) if the policy is a unit-linked policy—a definition of the units to which benefits are linked and the nature of the underlying assets.
- (2) If the Authorised Firm is exempt from including an illustration mentioned in rule (1) (f) because the benefits of the Life Policy or Family Takaful Contract do not depend on future investment returns, the Product Disclosure Document prepared by it for the Life Policy or Family Takaful Contract must include—
 - (a) an indication of guaranteed benefits, surrender benefits, paid-up values and any other benefits (whichever are applicable) under the policy; and
 - (b) the likely amount, and a general description, of the charges and expenses the Retail Client will, or may be expected to, pay under the policy.

5.6.6. Life policies or Family Takaful Contract —illustrations

- (1) For COB 5.6.5 (1) (f), the illustration must indicate how the main terms of the Life Policy or Family Takaful Contract, as the case may be, apply to the Retail Client and contain projections of the final surrender value of the policy calculated in accordance with COB 5.6.8 (Life policies—projection calculation rules).
- (2) The illustration must contain at least 2 projections, with—
 - (a) a lower projection calculated on the basis of a rate of return to be set at no more than 5%; and
 - (b) a higher projection calculated on the basis of a rate of return that the Authorised Firm reasonably expects the Life Policy to achieve, but that, in any event, must be no more than 9%.

5.6.7. Life policies or Family Takaful Contracts—effect of charges and expenses tables

- (1) For COB 5.6.5(1) (g), each table illustrating the effect of charges and expenses on the policy must include the contents of the following table (The Effects of Charges and Expenses Table).

The Effects of Charges and Expenses Table



WARNING—if you cash in early you could get back less than you have paid in

This table illustrates what you would get back from your investment if it grew at x% (insert rate of return) a year. These figures are not guaranteed and are only intended to demonstrate the effect of charges and expenses on your investment based on different assumptions on the growth of your investments.

<u>At end of Year</u>	<u>Total paid in to date</u>	<u>Effect of charges and expenses to date</u>	<u>What you might get back</u>
	<u>KZT</u>	<u>KZT</u>	<u>KZT</u>
<u>1</u>			
<u>2</u>			
<u>3</u>			
<u>4</u>			
<u>5</u>			
<u>10</u>			
<u>15</u>			

- (2) An Authorised Firm may change the Effects of Charges and Expenses Table so far as necessary to reflect the nature and effect of the charges and expenses inherent in the particular product.
- (3) In completing the Effects of Charges and Expenses Table, the Authorised Firm must—
- (a) include figures for the first 5 years of the Life Policy or the Family Takaful Contract; and
 - (b) if the policy is a whole-Life Policy or Family Takaful Contract or the illustration covers more than 25 years—include figures for the 10th and every subsequent 10th year of the policy’s term; and
 - (c) if the policy is neither a whole-Life Policy nor a Family Takaful Contract and the illustration covers 25 years or less—include figures for the 10th and every subsequent 5th year of the policy’s term; and
 - (d) include—
 - (i) the final year of the policy; or



- (ii) for a whole-Life Policy or a single premium Life Policy without a fixed term—an appropriate end date for the policy; and
 - (e) if there is discontinuity in the trend of surrender values—include the appropriate intervening years; and
 - (f) in the ‘Total paid in to date’ column, show cumulative totals of contributions paid to the end of each relevant year; and
 - (g) in the ‘Effect of charges and expenses to date’ column, show the figure calculated by taking the accumulated value of the fund without taking charges and expenses into account and then subtracting from that figure the figure in the ‘What you might get back’ column for the same year ; and
 - (h) in the ‘What you might get back’ column, show the projection of the surrender value for the policy calculated in accordance with COB 5.6.8 (Life policies—projection calculation rules) and accumulated at the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6 (2) (Life policies—illustrations), as the case requires; and
 - (i) if the Retail Client is entitled to exercise, and has chosen or expressed the intention to exercise, the right to make partial surrenders—include a column headed ‘Withdrawals’ showing the cumulative total of the withdrawals.
- (4) The Authorised Firm must include a statement at the bottom of the table expressing the effect of charges and expenses on the Life Policy in terms of a reduction in the rate of return.

Guidance

The reduction in the rate of return (**A**) may be calculated as follows:

$$A = B - C$$

where:

B is the rate of return selected by the firm for the lower or higher projection mentioned in COB 5.6.6(2), as the case requires.

C is the annual rate of return worked out by—

- (a) carrying out a projection using B; and
- (b) then calculating the annual rate of return (rounded to the nearest tenth of 1%) required to achieve the same projection value if charges and expenses were not taken into account.

5.6.8. Life policies or Family Takaful Contract —projection calculation rules

- (1) For COB 5.6.6 (Life policies—illustrations) and COB 5.6.7 (Life policies—effect of charges and expenses table), any projection of the surrender value of a Life Policy or Family Takaful Contract used in an illustration or an Effects of Charges and Expenses Table must be calculated in accordance with a methodology and set of assumptions prepared and approved by the Approved Actuary of the AIFC Insurer preparing the Product Disclosure Document.



- (2) In preparing the methodology and assumptions mentioned in subrule (1), the Approved Actuary must have regard to relevant professional standards and any requirements of this division.
- (3) A projection must be specific to the Retail Client and be calculated on the basis of the Client's age and sex, the amount assured, the premium and other factors material to the Life Policy or the Family Takaful Contract.
- (4) However, if a projection is calculated for the purposes of a financial promotion or in relation to a single premium Life Policy, it must be calculated on the basis of factors that represent the average member of the group to whom it is directed or by whom it is likely to be received.
- (5) In calculating the projection, contributions must be net of any rider benefits and extra premiums charged for increased underwriting benefits.

5.6.9. Life policies or Family Takaful Contracts —provision of policy document

If an Authorised Firm finalises a Life Policy with or for a Client, the firm must, immediately after finalising the policy, give the Client, in a durable medium, a policy document containing all the terms of the policy.

5.6.10. Life policies or Family Takaful Contracts —recordkeeping

- (1) An Authorised Firm must ensure that a copy of a Product Disclosure Document given by it to a Retail Client in relation to a Life Policy is made and kept for at least 6 years, unless the Client does not take out the policy.
- (2) An Authorised Firm must ensure that a copy of any other disclosure documentation given by it to a Retail Client in relation to a Life Policy is made and kept for at least 6 years, unless the Client does not take out the policy.
- (3) An Authorised Firm must ensure that a record of the methodology and set of assumptions prepared and approved by the Approved Actuary for COB 5.6.8 (1) for the firm is made and kept for at least 6 years after the day the methodology or set of assumptions is replaced by a new methodology or set of assumptions.
- (4) An Authorised Firm must ensure that a copy of each policy document given to a Client for a Life Policy under COB 5.6.9 is kept for at least 6 years after the day the policy ends.

5.6.11. Takaful Contracts – Specific Disclosure requirements

- (1) A Takaful Operator or an Insurance Intermediary or an Insurance Manager making a comparison between a Takaful Contract and conventional Contract of Insurance, in the course of offering a policy to their Client, must highlight the principal differences between these products as part of their marketing communications or promotional materials. These differences may relate to the following aspects, but are not limited to:
 - (a) Presence of contractual right to claims or benefits or whether these are discretionary on the part of the firm;
 - (b) The basis on which benefits and surpluses are allocated to, and between policyholders or participants, as the case may be; and



- (c) Whether there is any future liability for policyholders or participants, either individually or collectively, to meet deficits in the policyholders' or participants' funds.

- (2) Takaful Operators must ensure that, the participants in the Takaful funds operated by them are provided with clear information about the performance of the funds. The disclosures to meet this requirement must comply with relevant AAOIFI standards, in particular Standard 13 (Disclosure of Bases for Determining and Allocating Surplus or Deficit in Islamic Insurance Companies) and 12 (General Presentation and Disclosure in the Financial Statements of Islamic Insurance Companies).

- (3) Takaful Operators must disclose to the participants in the Takaful Funds operated by them, the amount of Wakala fee and Mudaraba share of profits paid by the Takaful fund to the Takaful Operator, as well as the methodology for determining such amounts. In the case of Takaful Operators adopting Takaful models employing contracts other than Wakala or Mudaraba, the compensation paid by the Takaful Funds to the Takaful Operator and the relevant methodologies must be disclosed.



8. CLIENT ASSETS

8.5. Client money: Insurance Intermediation and Insurance Management

8.5.1. Application

COB 8.5 applies to an Insurance Intermediary or Insurance Manager that receives or holds Money for, or on behalf of, a Client in the course of carrying on Insurance Intermediation or Insurance Management. This section also applies to an Insurance Intermediary or Insurance Manager that carries on Insurance Intermediation or Insurance Management for a Takaful Operator.

Guidance: Application to Takaful Business

All provisions in this section 8.5 of AIFC COB rules apply to Insurance Intermediation or Insurance Management activities carried out for a Takaful Operator or for a Takaful Business. All references to insurance contract include references to Takaful contracts.



11. INSURANCE INTERMEDIARIES

11.1. Application

11.1.1. General application

Subject to COB 11.1.2, an Insurance Intermediary licensed by the AFSA to provide Insurance Intermediation must comply with the Rules in this COB 11, in respect of both Contracts of Insurance and Takaful Contracts.

11.1.2. Professional Clients and Market Counterparties

An Insurance Intermediary providing Insurance Intermediation for a Market Counterparty is only required to comply with COB 11.3.1, 11.7.1, 11.7.2 and 11.8.

An Insurance Intermediary providing Insurance Intermediation for a Professional Client is required to comply with COB 11.2.1, 11.3., 11.4, 11.5.1, 11.5.3, 11.6.1, 11.7 and 11.8.

An Insurance Intermediary may propose both Contracts of Insurance and Takaful Contracts to its Clients, as long as they provide clear information to enable their Clients to make informed choices.

11.2. Disclosure requirements

11.2.1. General disclosure obligation

Prior to providing Insurance Intermediation to a Client, an Insurance Intermediary must disclose to that Client:

- (a) its name and address;
- (b) its regulatory status;
- (c) the name and address of the insurer or insurers effecting the Contract of Insurance;
- (d) if it has a direct or indirect holding representing 10% or more of the voting rights or capital in an insurer; or
- (e) if an insurer, or its parent undertaking, has a direct or indirect holding representing 10% or more of the voting rights or capital in the Insurance Intermediary;
- (f) contact details for notifying a claim under the Contract of Insurance; and
- (g) details of its complaints-handling procedure.

11.2.2. Disclosure of basis of advice

An Insurance Intermediary must, before providing Insurance Intermediation to a Retail Client, disclose whether:

- (a) it gives advice on the basis of a fair analysis of the market;
- (b) it has a contractual agreement with a particular insurer or insurers to offer only their Contracts of Insurance to Clients; or



- (c) even if there are no contractual agreements of the type referred to in (b), it does not give advice on the basis of a fair analysis of the market.

If (b) or (c) applies, the Insurance Intermediary must be prepared to provide a Retail Client on request with a list of insurers with whom it deals and may deal in relation to the relevant Contracts of Insurance.

11.3. Disclosure of costs and remuneration

11.3.1. Disclosure of costs

An Insurance Intermediary must provide details of the costs of each Contract of Insurance or Insurance Intermediation service offered to a Client.

11.3.2. Disclosure of new costs

An Insurance Intermediary must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

11.3.3. Disclosure of commissions and other benefits

An Insurance Intermediary must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Intermediation for that Client.

11.4. Obligation on Client to disclose material facts

An Insurance Intermediary must explain to a Client:

- (a) the Client's duty to disclose all material facts in relation to the risk covered by the insurance before the insurance cover commences and throughout the lifetime of the policy; and
- (b) the consequences of any failure by the Client to disclose such material facts.

11.5. Statement of demands and needs

11.5.1. Providing a statement of demands and needs

Prior to the conclusion of a Contract of Insurance, an Insurance Intermediary must provide the Client with a statement of the demands and the needs of that Client, which may be in summary form, as well as the underlying reasons for any advice given to the Client in relation to that Contract of Insurance.

Guidance: Nature of statement of demands and needs

The statement should be provided in writing, but may be provided verbally where the Client requests it, or where immediate cover is necessary.

11.5.2. Ensuring suitability based on demands and needs

An Insurance Intermediary must only make a recommendation to a Retail Client to enter into a Contract of Insurance that is General Insurance where it has taken reasonable steps to ensure that the recommended Contract of Insurance is suitable in light of the Client's demands and needs.



11.5.3. Written confirmation of instructions

Where an Insurance Intermediary is instructed to obtain insurance, which is contrary to the advice that it has given to a Client, the Insurance Intermediary must obtain from the Client written confirmation of the Client's instructions before arranging or buying the relevant insurance.

11.6. Information about Contract of Insurance

11.6.1. Adequate information

An Insurance Intermediary must provide adequate information in good time and in a comprehensible form to enable a Client to make an informed decision about whether or not to enter a Contract of Insurance or a Takaful Contract proposed by the Insurance Intermediary.

11.6.2. Policy summary

An Insurance Intermediary must provide a Retail Client with a policy summary explaining the terms of the Contract of Insurance or the Takaful Contract:

- (a) the name of the insurer;
- (b) type of insurance and cover;
- (c) significant features and benefits;
- (d) significant or unusual exclusions or limitations;
- (e) applicable period of cover;
- (f) a statement, where relevant, that the consumer may need to review and update the cover periodically to ensure it remains adequate;
- (g) the procedure for handling complaints; and
- (h) contact details for notifying a claim.

11.7. Other requirements

11.7.1. Quotations

When giving a quotation, an Insurance Intermediary must take due care to ensure the accuracy of the quotation and its ability to obtain the insurance at the quoted terms.

11.7.2. Confirmation of cover

Where a Client concludes a Contract of Insurance or a Takaful Contract, an Insurance Intermediary must, as soon as reasonably practicable, provide that Client with:

- (a) written confirmation and details of the insurance, including any changes to an existing Contract of Insurance; and
- (b) the full policy documentation.

11.7.3. Amendments

An Insurance Intermediary must:



- (a) respond promptly if a Client requests an amendment to its insurance policy;
- (b) provide the Client with details of any additional premium or charges that may need to be paid or which may be returned; and
- (c) provide the Client with written confirmation of any amendment and return any premium or charges due to the Client promptly.

11.7.4. Advance notification

If the insurance cover of a Client is due to expire or needs to be renewed, the Insurance Intermediary must give sufficient advance notification to the Client to allow that Client to consider whether it wishes to enter into a new policy or renew its existing policy.

11.7.5. Documentation on expiry or cancellation

When the insurance expires or is cancelled, an Insurance Intermediary must on request provide the Client with the documentation and information to which that Client is entitled.

11.7.6. Claims—general requirements

Where an Insurance Intermediary handles claims it must:

- (a) handle claims promptly and fairly;
- (b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;
- (c) not unreasonably reject a claim (including by terminating or avoiding a policy); and
- (d) settle claims promptly once settlement terms are agreed.

11.7.7. Claims handling—recordkeeping

- (1) An Insurance Intermediary must make a record of the following information in relation to each claim made against a policy handled by it:
 - (a) details of the claim;
 - (b) the date the claim was settled or rejected;
 - (c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.
- (2) The Insurance Intermediary must keep the record for at least 3 years after the day the claim is settled or rejected.



19. CONDUCT OF INSURANCE AND TAKAFUL BUSINESS

19.1. Insurance and Takaful business—general

19.1.1. Application

- (1) This chapter applies to Insurers and Takaful Operators.
- (2) All references to Insurers in this chapter should be read as referring also to Takaful Operators. All the provisions of this chapter are applicable to Takaful Business conducted by Takaful Operators, except in the case of provisions which are specifically exempt for Takaful Operators.
- (3) All references to Life Policies in this chapter must be read as referring also to Family Takaful Contracts. The regulatory obligations specified by the provisions in this chapter to Life Policies are also applicable to Family Takaful Contracts and all related aspects of Family Takaful Business.
- (4) All references to Insurance Contracts in this chapter must be read as referring also to Takaful Contracts. The regulatory obligations specified by the provisions in this chapter to Insurance Contracts are also applicable to Takaful Contracts and all related aspects of Takaful Business.

19.1.2 General Requirements

- (1) The use of the terms Takaful, Retakaful, General Takaful and Family Takaful may only be used to describe the products of Authorised Firms that are licensed by the AFSA to carry out the Regulated Activity of Takaful Business.
- (2) For the purposes of this AIFC COB Rules, all references to Takaful shall be taken as including Takaful, Retakaful, General Takaful and Family Takaful.
- (3) The term 'Islamic insurance' may only be used by Authorised Firms licensed by the AFSA to carry out the Regulated Activity of Takaful Business.



20. INSURANCE MANAGEMENT

Guidance: Outsourcing to Insurance Managers

An Insurer or a Takaful Operator may outsource functions or activities directly related to the Regulated Activities of Effecting or Carrying on Contracts of Insurance to a service provider or those related to the Regulated Activity of Takaful Business, including an Insurance Manager, subject to the provisions of GEN 5.2 (Outsourcing).

In addition to the obligations placed directly upon Insurance Managers in this Chapter, where an Insurer or a Takaful Operator outsources functions to an Insurance Manager, the Insurer or Takaful Operator remains responsible for the compliance of the Insurance Manager with the Framework Regulations and Rules (pursuant to GEN 5.2.1) and the outsourced function is deemed to be carried out by the Insurer or Takaful Operator itself (pursuant to GEN 5.2.2).

20.1. Application

20.1.1. General application

This chapter applies to an Insurance Manager – i.e. Authorised Firm that is licensed by the AFSA to conduct the Regulated Activity of Insurance Management.

20.2. General

20.2.1. Provision of Insurance Management services

- (1) Subject to (2), an Insurance Manager may provide Insurance Management services to AIFC-Incorporated Insurers, AIFC-incorporated Takaful Operators and their Branches). An Insurance Manager may also provide Insurance Management services to Non-AIFC insurers and Non-AIFC Takaful Operators (i.e. insurers or Takaful Operators operating entirely outside the AIFC).
- (2) An Insurance Manager must not underwrite on behalf of a Non-AIFC insurer or Non-AIFC Takaful Operator in relation to a Contract of Insurance or a Takaful Contract with or for a Retail Client, unless the Insurance Manager has obtained the prior written approval of the AFSA in respect of that insurer or Takaful Operator.

Guidance: AFSA approval of underwriting on behalf of Non-AIFC Insurer

For the purposes of COB 20.2.1(2), an Insurance Manager should submit to the AFSA sufficient information to establish that the Non-AIFC insurer or the Non-AIFC Takaful Operator for which it proposes to act is fit and proper and is subject to adequate regulation in its home jurisdiction.

20.2.2. Meaning of Client

For the purposes of this Chapter, the Client of an Insurance Manager is any Policyholder or potential Policyholder with whom the Insurance Manager interacts when carrying on its Insurance Management activities.



20.3. Disclosure requirements

20.3.1. General disclosure obligation

Prior to providing Insurance Management services to a Client, an Insurance Manager must disclose to that Client:

- (a) its name and address;
- (b) its regulatory status; and
- (c) details of its complaints-handling procedure.

20.3.2. Disclosure of costs

An Insurance Manager must provide details of the costs of Insurance Management service offered to a Client.

20.3.3. Disclosure of new costs

An Insurance Manager must ensure that it does not impose any new costs, fees or charges without first disclosing the amount and the purpose of such costs, fees, or charges to the Client.

20.3.4. Disclosure of commissions and other benefits

An Insurance Manager must, at the request of any Client, disclose to that Client any commissions or other benefits that it receives in connection with its Insurance Management for that Client.

20.4. Claims handling

20.4.1. Claims handling—general requirements

Where an Insurance Manager handles claims it must:

- (a) handle claims promptly and fairly;
- (b) provide its Client with reasonable guidance on making a claim, and update it on the progress of its claim;
- (c) not unreasonably reject a claim (including by terminating or avoiding a policy); and
- (d) settle claims promptly once settlement terms are agreed.

20.4.2. Claims handling—recordkeeping

- (1) An Insurance Manager must make a record of the following information in relation to each claim made against a policy handled by it:
 - (a) details of the claim;
 - (b) the date the claim was settled or rejected;
 - (c) details of settlement or rejection, including information relevant to the basis for the settlement or rejection.



- (2) The Insurance Manager must keep the record for at least 3 years after the day the claim is settled or rejected.